

# ***The LPS Conservatorship Program: How to Improve Service Delivery and Strengthen Inter-Agency Relationships***

ERIC CHO

## **EXECUTIVE SUMMARY**

Mental illness is a debilitating disease that affects the well-being of people who usually can live a high functioning life in our community. The population affected by this disease runs across socio-economic and ethnic lines as well as age. With the proper treatment received, the many sufferers of mental illness can live an independent and productive life. The mission of the LPS Conservatorship Intake Unit is to provide the screening, investigation, and related responsibilities as specified in Section 5350 of the Welfare and Institution Code (part of the Lanterman-Petris-Short Act). The unit screens and investigates referrals from designated referring sources such as the county hospital. When a client is put under temporary conservatorship, it gives the county the authority of an involuntary hold on the client in a locked psychiatric facility so that the client can get treatment for longer than 14 days (5250 certification). The current model of service coordination in Contra Costa County poses many barriers to effective delivery of services to clients because of different policies, funding, communication issues with the various departments and agencies, as well as a shortage of staff and resources.

I chose Alameda County to do my 15-day internship because it has a highly regarded LPS Conservatorship Program and its client population and profile is very similar to Contra Costa County. It has a more integrated service delivery model among its various departments and agencies.

By comparing Alameda County's program to Contra Costa County's and looking at why their program functions so efficiently and effectively, recommendations can be made for improving services in Contra Costa. My wish is that directors and executive team members, after reviewing and considering the recommendations made in this paper, will be able to take the steps necessary to eliminate the barriers of service integration in Contra Costa County currently encountered, including a lack of:

- a formal contract between County Counsel and LPS Conservatorship;
- experienced public defenders;
- communication between departments and agencies;
- adequate staff resources; and
- expert witnesses.

The goal is to provide an efficient, more effective, client-centered, professional LPS Conservatorship Intake program in Contra Costa County.

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## **Background**

The LPS (Lanterman-Petris-Short Act) Conservatorship Intake Unit at Contra Costa County has been under the Employment and Human Services Department for over twenty years. The Permanent Conservatorship and Probate Conservatorship units, however, have always been under the Public Guardian Office at the County Health Services Department. Because of this bureaucratic separation, as well as operational barriers, such as lack of communication and differing disciplines and clinical perspectives (i.e., social services versus mental health), often there is no continuity between the front-end and the tail-end when it comes to case management.

Long-term planning for clients usually is decided in the Mental Health Department without opportunity for relevant input from LPS Conservatorship Intake staff. This makes it frustrating for the LPS Staff at the front-end as they feel strongly that they also are advocates for the clients. Another barrier to effectively providing services to clients occurs due to the absence of a formal contractual relationship between County Counsel and the LPS Conservatorship Intake staff. The department, which is unlike some other counties, such as Alameda, does not have a formal contract (direct funding) with County Counsel who files the petition for LPS and represents the department in trial a the client contests the conservatorship. Thus, LPS Conservatorship Intake staff can only benefit from non-specific legal representation offered to Employment and Human Services Department as a whole and routinely has to work with different County Counsel attorneys on a rotational basis. This makes good communication a

challenge. Contra Costa County's Public Defenders often support their clients to contest the LPS Conservatorship and thus trials are set. The treating psychiatrists in most of the facilities are not available to testify in court, and, due to limited resources, it's difficult for the LPS Conservatorship Intake Unit to set up the expert witness. The reason I chose Alameda County to do my 15 Day internship is because it has a highly regarded LPS Conservatorship program and its client population and profile is very similar to Contra Costa County's. In addition, their experienced LPS Conservatorship Supervisor is familiar with how Contra Costa LPS Conservatorship system functions.

## **Court Structure**

Alameda County has a special courtroom next to its psychiatric emergency hospital specially designated to hear LPS Conservatorship cases. Every Tuesday, a Superior Court judge comes in to hear LPS cases and conducts Writ (Writ of Habeas Corpus) hearings on Fridays. There is a Psychiatric Technician on the premise to supervise the client and family members if any unforeseen crisis occurs prior to the hearings. They even have a quiet waiting room for the client as well as one for the family before they go into the courtroom.

On a regular Tuesday morning, the judge will be there to review the LPS Conservatorship cases. County Counsel is present as well as LPS staff, a Public Defender for the client, the client, and expert witnesses if client is contesting the conservatorship. Sometimes the client's family members also attend the court hearings. If the client contests the conser-

torship, the expert witness, usually a psychiatrist or a psychologist, testifies informally (this is a hearing, not a trial) why he feels the client should remain conserved. The reason is usually because the client is still gravely disabled and requires a longer period of treatment. The client's Public Defender discusses with the client the need to accept more treatment if there is agreement on the clinical recommendations of the treatment team. In Alameda County, the mandate is clear. Despite the opposing roles of the County Counsel, LPS Conservatorship and the Public Defender, they first and foremost work together as a team for the best interest of the client.

The County Counsel from Alameda stated that they rarely go to trial after this process, and the likelihood of a jury trial for a LPS Conservatorship being contested is less than once a year. All three departments have this informal agreement (not a legal contract) that at the first 30 days hearing for LPS Conservatorship, if they agree that the client needs a longer period of treatment, they will set a continuance for temporary LPS conservatorship for 150 days. If at any time during the 150 days the client is no longer judged or discerned to be gravely disabled, County Counsel will file a petition to dismiss the LPS Conservatorship.

### **Staffing and Roles**

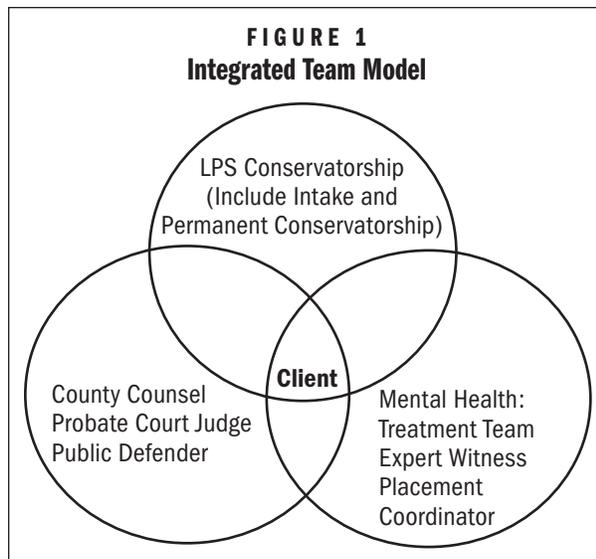
In Alameda County, there is a full-time designated County Counsel attorney who works exclusively with LPS and Probate cases. She also has a clerk who works for her with all the LPS petitions and paperwork. This County Counsel's position is contracted and paid under the budget from Public Guardian/LPS Conservatorship. She is available to meet and talk with the LPS staff daily regarding referrals, public defender's questions and issues as well as ex-parte dismissals (means for one party; usually judge's signature in chambers) to terminate a temporary conservatorship before the next court hearing.

The Public Defender goes to the acute psychiatric hospital and also all the IMD's (Institutes for Mental Disease) to interview clients and talk to the treating team. He then talks to the LPS Conserva-

torship staff regarding their investigation results. If he agrees that a client needs to be conserved longer to receive treatment, he advises against contesting the conservatorship. The Public Defender whom I interviewed stated that if a client demands a trial, he would set a trial date. However, he would first explain to his client why a trial would not be in the client's best interest if he thinks the client needs additional treatment. The Alameda Public Defender said that his colleagues assigned to represent LPS Conservatorship clients are usually "seasoned" public defenders who have knowledge of the mental health system and psychiatric diagnoses, although they do not receive regular mental health training or in-services. Because they personally visit with and see their clients, they usually know what their clients' needs are.

As for the role of the LPS Conservator, his job is to investigate whether the client is still gravely disabled i.e., (unable to provide food, shelter and clothing for himself), document his treatment needs, make recommendations to Mental Health, and advocate for the client if service barriers occur. Instead of an adversarial relationship, the LPS Conservator works collaboratively with County Counsel as well as the Public Defender and sees them as co-advocates for the client.

From what I have observed at the Alameda LPS Court as well as talking to social workers and administrators at the various psychiatric facilities, their treatment team plays an integral role in the LPS Conservatorship process. Their psychiatrists, case managers and social workers are very willing to testify in court to verify their client is still gravely disabled and needs treatment. Alameda County rarely uses expert witnesses from the outside. I witnessed a psychiatrist at a Tuesday morning court hearing discuss his clinical recommendations and testify that the client was still gravely disabled. The judge then made a decision to have the client continue with her LPS Conservatorship. While the client appeared to be unhappy regarding the judge's ruling, her Public Defender did not contest, but, instead, he explained to his client why the judge made that decision. This model of teamwork is illustrated in Figure 1.

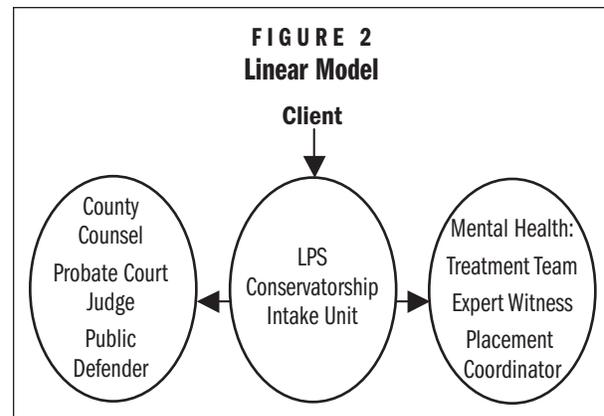


### Challenges in Contra Costa

In comparing the two LPS Conservatorship programs, Contra Costa County's LPS Conservatorship Program is more fragmented and there appears to be less continuity in the process. The model of service coordination in our current system is more linear than integrated (see Figure 2).

A linear system creates several problems. First, the Contra Costa County Employment and Human Services Department does not have a contract with County Counsel to provide a designated attorney to work exclusively for the LPS Conservatorship Intake unit. It has to work with multiple attorneys on a rotational basis. If specific cases are discussed with one attorney one day, a few days later the whole case may have to explain to another attorney before consultation can be requested. This makes for a less effective and more costly system as they cannot respond to questions or requests in a timely manner due to their staffing schedule and workload. This also creates a lack of ownership on the part of County Counsel to the program and in turn staff does not have a true partnership with legal consultants.

Additionally, the Public Defenders assigned to conservatorship cases are frequently new, inexperienced attorneys who have been assigned to the Probate Court also on a rotational basis. Contra Costa County Public Defenders do not have any previous



case experience with mental health issues, and their focus is protecting their clients' civil rights. It is also their practice that they do not meet their clients face-to-face before court or a trial as all the face-to-face interviews/assessment are completed by a paralegal who works for the Public Defender's office. Moreover, it appears that there is an incentive for them to set a trial for their clients as it offers a good opportunity for them to acquire more trial experience. This results in a lot of jury trials set by them for their clients to contest the LPS Conservatorship.

This volume of trials ultimately impacts the whole court system as the Probate Court has to provide more schedules and courtrooms for trials, and the County Counsel attorneys also have to spend more time preparing for trials. This system also impacts LPS Conservatorship staff's workload, thus increasing the need for additional staff time and resources. However, trial records indicate that these trials, most of them with a jury, usually result in the client losing and remaining on conservatorship.

Another problem is that while communication has improved between the LPS Conservatorship Intake and Mental Health Case Management Departments, the very nature of the two programs being under different departments, policies, management, and budgets, still results in a significant lack of collaborative decision-making regarding clients' long-term care planning. This is very frustrating for LPS staff as, even though work is done with the client on a temporary basis at the front-end, it would be better if their involvement and input in the client's care

plan impacted the long-term well-being of the client in his treatment process.

Furthermore, LPS Conservatorship Intake is a small program and does not receive any funding from Mental Health. The budget for staffing comes from Aging and Adult Services Division of Employment and Human Services Department. It was a small unit to start with and three years ago, because of budget cuts, the unit went from a staff of three permanent workers down to two workers. With the inefficiencies of the current system, including demands from Public Defenders, the number of trials, and increased volume of referrals from the community, there is an urgent need for additional staff and an improved system.

Finally, because very few psychiatrists in the acute hospitals and IMD's are available to testify in trials, LPS Conservatorship staff are responsible to arrange for expert witnesses to testify. This is a difficult and time-consuming task due to the limited amount of available expert witnesses with whom the department can contract. A lack of resources to provide transportation for clients to court hearing is another barrier to an already cumbersome system. The transportation driver/escort, who is paid by Mental Health, routinely gives priority to transportation requests made by the Public Defender's office as well as Mental Health programs. On several occasions, the LPS supervisor as well as his division manager had to contact the Chief of Adult Mental Health to ask his assistance in designating staff at his division to help transport a client to court hearing.

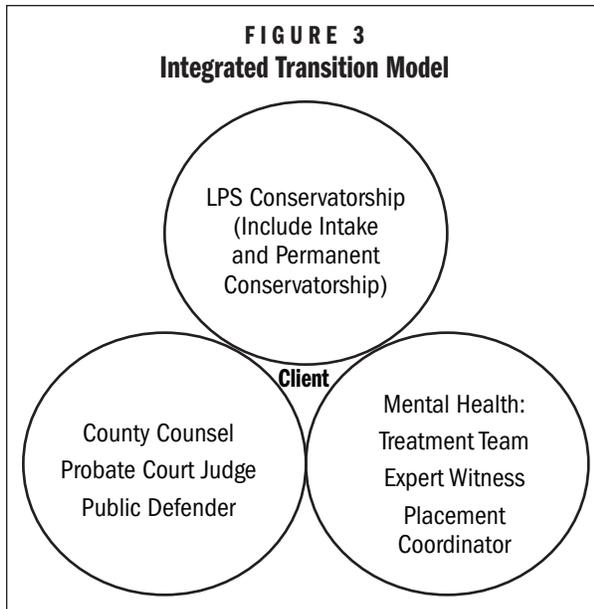
## Recommendations

Because of the obvious differences in how Alameda County runs its LPS Conservatorship program compared to Contra Costa County, it is not feasible to replicate their model exactly. However, there are significant changes that can be made for our LPS Conservatorship Intake Program to be more effective. The following are some recommendations based on knowledge gained as the Supervisor of the Contra Costa County LPS Conservatorship Intake program and my internship experience with Alameda County:

- Contra Costa County can start out by re-examining the budget allotted to this program and considering the possibility of increasing funding for LPS staffing. Instead of having two investigators and one temporary worker, the program should be funded to support three permanent full-time investigators again.
- The Employment and Human Services Department can consider funding or perhaps partnering with Health Services Department to pay for a County Counsel attorney who is designated to work exclusively on LPS Conservatorship cases as well as a clerk to help him/her with all the related paper work.
- The Employment and Human Services Department's Executive Team should create a system that will promote the development of a comprehensive and collaborative working relationship between LPS Conservatorship Intake, County Counsel, Public Defender and Mental Health (Health Services Department). Instead of focusing on "we" and "they", everyone needs to work together for the continuity of services and the best interests for clients. Agencies and departments could schedule regular conferences and share resources more often to ensure that mutual clients receive the full benefits of services. The focus should be "client"-centered rather than "agency"-centered which creates more concerns about jurisdiction, division of labor and funding. I would like to see Contra Costa County progress a step closer to an integrated model (Figure 3) in the near future.

## Conclusion

I would like to thank you, the directors and executive team members, for your time and interests in considering my recommendations to provide an efficient, more effective, client-centered, professional LPS Conservatorship Intake Program in Contra Costa County. I feel very strongly that the clients served in this program are frequently being looked down upon and despised by our society because of the mental illnesses they suffer. These clients depend on the public



services system to advocate for them and get them connected to the treatment they need. I have already started working on this goal of an integrated model by helping to set up a meeting at the County Administrator's office to have all the agencies in one room to explore current limitations and how we can work together more efficiently despite these limitations. I hope the County Administrator's office will be able to continue to hold these interagency brainstorming meetings.

After persistent requests, the Chief of Adult Services in Mental Health has agreed to include the LPS Conservatorship investigators in weekly Bed Review meetings at the county hospital. I believe that with better and consistent communication between administrations from both the Employment and Human Services Department and the Health Services Department, as well as increased inter-agency conferences, resource-sharing, and cross-training, each department will better understand the other department's goals. This will result in increased opportunities to share resources and expertise to better serve their mutual clients.

In conclusion, the opportunity of spending time in a county that has a truly integrated program model has provided me with insight and motivation to look at the possibility for positive changes in Con-

tra Costa's program. I have been professionally and personally enriched by this experience.

### Acknowledgments

I would like to first thank our Director of Employment and Human Services Department, Joe Valentine, as well as Bob Sessler, Director of Aging and Adult Services, for giving me the opportunity to participate in BASSC.

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I would like to specially thank Harry Gin, who supervises the LPS Conservatorship Program, for taking the time to give me a tour of his unit, introducing me to all the different components, such as County Counsel, Public Defender, Mental Health, so I could interview them or observe how they do business. He also set up field visits for me to go with his staff to a couple of their IMD facilities.

I want to thank County Counsel, Ann Hansen, Public Defender, Bill Muraoka, Mental Health Deputy Director, Barbara Majak and LPS staff, Winnie Lau and Mary Fierro, for spending the time with me and permitting me to observe their weekly court hearing and Bed Control meetings.

